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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

1995-96

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Insurance, Securities and Corporate Policy...

COMMITTEE NOTICES ...

- Committee Reports ... CR
- Executive Sessions ... ES
- Public Hearings ... PH

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... Appt (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... CRule (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)

(ab = Assembly Bill)

(ar = Assembly Resolution)

(ajr = Assembly Joint Resolution)

(sb = Senate Bill)

(**sr** = Senate Resolution)

(sir = Senate Joint Resolution)

Miscellaneous ... Misc

Assembly

Assembly Bill 325

April 19, 1995

April 20, 1995

Record of Committee Proceedings

AN ACT relating to health care professional service corporations. Introduced by Representatives Albers, Lasee, Baldus, and Goetsch.

Referred to committee on Insurance, Securities & Corporate Policy.

PUBLIC HEARING HELD

Present: (12) Representatives Albers,
Lorge, Underheim, Kreibich,
Lazich, Hoven, Green,
Baldus, Notestein, Robson,
Cullen, and Ziegelbauer

Absent: (1) Lasee

Appearances For the Bill

- ► Pat Essie, Wisconsin Chiropractic Association, Madison, Wisconsin.
- ► Lisa Hilbert, Wisconsin Physical Therapy Association, Madison, Wisconsin.
- ► Terry Hottenroth, Wisconsin Dietetic Association, Madison, Wisconsin.

Appearances Against the Bill None

Appearances for Information Only None

Registrations For the Bill None

Registrations Against the Bill None

September 14, 1995

EXECUTIVE SESSION HELD

Present: (12) Representatives Albers,
Lorge, Underheim, Lazich,
Hoven, Lasee, Green, Baldus,
Notestein, Robson, Cullen,
Ziegelbauer

Absent: (1) Kreibich

Moved by Representative Albers, seconded by Representative Baldus that Assembly Substitute Amendment 1 be recommended for introduction and adoption.

Ayes: (12)

(12) Representatives Albers,
Lorge, Lasee, Underheim,
Lazich, Hoven, Green,
Baldus, Notestein, Robson,
Cullen, and Ziegelbauer

Noes:

(0) None.

Absent:

(1) Kreibich.

Motion carried: Introduction and adoption recommended.

Moved by Representative Baldus, seconded by Representative Lasee that Assembly Bill 325 be recommended for passage as amended.

Ayes:

(12) Representatives Albers,
Lorge, Lasee, Underheim,
Lazich, Hoven, Green,
Baldus, Notestein, Robson,
Cullen, and Ziegelbauer

Noes:

(0) None.

Absent:

(1) Kreibich.

Motion carried: Recommended for passage as amended.

Darcy J. Demaske

ke, Committee Clerk

Assembly Committee on Insurance, Securities, and Corporate Policy DATE 9-14-95 Moved by Ballus San Seconded by Laser same SB_____ AB 325 Clearinghouse Rule_____ SJR Appointment AJR____ SR_____ Other____ A/S Amdt____ A/S Amdt_____ to A/S Amdt_____ AXS Sub Amdt 1 A/S Amdt_____ to A/S Sub Amdt_____ A/S Amdt to A/S Amdt to A/S Sub Amdt to A/S Sub Amdt ☐ Indefinite Postponement Be recommended for: A Passage as amended ☐ Tabling 🔀 Introduction ☐ Concurrence Adoption ☐ Nonconcurrence ☐ Rejection ☐ Confirmation Committee Member Aye No Absent Not Voting 1. Rep. Sheryl Albers, Chair X 2. Rep. William Lorge, Vice-Chair 3. Rep. Gregg Underheim 4. Rep. Robin Kreibich 5. Rep. Mary Lazich 6. Rep. Tim Hoven 7. Rep. Frank Lasee 8. Rep. Mark Green 9. Rep. Al Baldus 10. Rep. Barbara Notestein 11. Rep. Judy Robson 12. Rep. David Cullen 13. Rep. Robert Ziegelbauer 14. 15. 16. 17. 18. Totals MOTION CARRIED U MOTION FAILED

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To:

All Legislators

From:

Representative Sheryl Albers

Date:

April 12, 1995

Re:

Introducing LRB-0963/2 relating to health care professional

service corporations.

I am introducing LRB-0963/2 at the request of chiropractors, physical therapists and dieticians. The Legislative Reference Bureau Analysis is attached for your information.

Legislators wishing to co-sponsor this bill should contact my office by April 17 at 6-8531.





wisconsin physical therapy association, inc.

a chapter of the american physical therapy association, inc.



TO:

MEMBERS OF THE ASSEMBLY COMMITTEE ON INSURANCE,

SECURITIES AND CORPORATE POLICY

FROM:

WISCONSIN PHYSICAL THERAPY ASSOCIATION (WPTA),

REENIE KAVALAR, LISA HILBERT

RE:

PROFESSIONAL SERVICE CORPORATIONS 3 45 45 55

DATE:

APRIL 19, 1995

In 1993 Wisconsin Act 473 was passed which allowed for virtually all health care providers to co-own their service corporations. At the time of passage physical therapists were included under the Act. Also created in 1993 was Wisconsin Act 107. This Act allowed for a separate Physical Therapist Affiliated Credentialing Board. By creating a separate Board, physical therapists inadvertently were no longer included under Act 473.

The Wisconsin Physical Therapy Association urges your support for LRB-0963/2 which would allow Physical Therapists, Dietitians and Chiropractors to co-own their service corporations. This bill corrects the oversights which excluded these three professions.

Other benefits of LRB-0963/2 include closer working relationships among different provider groups, while allowing for services to be provided with greater efficiency. Referrals would also be much more convenient for the patient under this bill.

We hope you can support this proposal. Thank you for your attention and we look forward to working with you in the future. Please feel free to contact Lisa Hilbert, WPTA lobbyist, at 255-5522 if you desire additional information or have any questions.



BILL SUMMARY

AB 325: Health Care Service Corporations

DATE: September 23, 1995

BACKGROUND

Under current law, many health care professionals may organize as a service corporation. Any of the following health care professionals may be shareholders in such a corporation: a registered nurse, licensed practical nurse, nurse-midwife, physician, podiatrist, physician assistant, occupational therapist, occupational therapy assistant, respiratory care practitioner, pharmacist, optometrist, psychologist, private practice school psychologist, social worker, marriage and family therapist, and professional counselor.

Wisconsin has created the Patient Compensation Fund (the Fund) to cover certain claims arising from the acts of physicians, nurse anesthetists or their employees. An employee who is a health care professional, if not required to practice under the supervision of a physician or nurse anesthetist and not practicing under such direction, is not covered by the Fund.

SUMMARY OF ASA1 TO AB 325

ASA 1 to AB 325 will allow chiropractors, physical therapists, dietitians, speech-language pathologists, and audiologists to be shareholders in a health care professional service corporation. Because chiropractors, physical therapists, dietitians, speech-language pathologists, and audiologists may practice without the direction of a physician or nurse anesthetist, such an individual would not be covered by the Fund if, at the time of the act giving rise to a claim, the individual was not practicing under the direction of a physician or nurse anesthetist. In addition, the bill provides that if a health care professional service corporation determines that its primary purpose is not to provide the medical services of physicians or nurse anesthetists, the Fund will provide coverage. Such a determination may not be made if more than half of the shareholders of the service corporation are physicians or nurse anesthetists.

AMENDMENTS

As of the date of this bill summary, no amendments to ASA 1 to AB 325 have been submitted.

FISCAL EFFECT

An estimate of the fiscal effect of AB 325 was prepared by the Department of Regulation and Licensing. According to this report, AB 325 will have no fiscal effect on this department because it will neither increase nor decrease any department fiscal liability or revenue.

An estimate was also prepared by the Office of the Commissioner of Insurance. According to this report, the long-range fiscal implications of AB 325 on the Fund are indeterminable.

PROS

- (1) These trained and educated health care professionals deserve to be treated like other health care professionals who can be shareholders in a health care professional service corporation.
- (2) If existing health care professional service corporations convert to include providers other than physicians or nurse anesthetists, there will be a decrease in exposure for the Fund.

CONS

(1) Because existing health care professional service corporations may convert to include providers other than physicians or nurse anesthetists, revenues to the Fund will decline.

SUPPORTERS

AB 325 was introduced by Representatives Albers, F. Lasee, Baldus and Goetsch. At the public hearing held before the Assembly Committee on Insurance, Securities and Corporate Policy, the following appeared and testified in support of AB 325: Pat Essie (Wisconsin Chiropractic Association), Lisa Hilbert (Wisconsin Physical Therapy Association), and Terry Hottenroth (Wisconsin Dietetic Association).

OPPOSITION

No one appeared, testified, or registered in opposition to AB 325.

September 23, 1995 AB 325, page two

LEGISLATIVE HISTORY

AB 325 was introduced on April 19, 1995, and referred to the Assembly Committee on Insurance, Securities and Corporate Policy. A public hearing was held on April 20, 1995, and executive action was taken on September 14, 1995. This committee introduced and unanimously recommended ASA 1 to AB 325 for passage.

CONTACT: R. J. Pirlot, ARC







WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

One East Main Street, Suite 401; P.O. Box 2536; Madison, WI 53701-2536 Telephone (608) 266-1304 Fax (608) 266-3830

DATE:

September 25, 1995

TO:

REPRESENTATIVE SHERYL ALBERS, CHAIRPERSON; AND MEMBERS

OF THE ASSEMBLY COMMITTEE ON INSURANCE, SECURITIES AND

CORPORATE POLICY

FROM:

Gordon A. Anderson, Senior Staff Attorney

SUBJECT:

Assembly Substitute Amendment 1 to 1995 Assembly Bill 325, Relating to

Health Care Professional Service Corporations

This memorandum describes the provisions of, and provides background information on, Assembly Substitute Amendment 1 to 1995 Assembly Bill 325.

PROVISIONS OF ASSEMBLY SUBSTITUTE AMENDMENT 1

Assembly Substitute Amendment 1 amends current law relating to formation of professional service corporations by health care professionals. The Substitute Amendment amends the definition of "health care professional" to include persons who are licensed, registered or certified by the Chiropractic Examining Board, Physical Therapists Affiliated Credentialing Board, the Dieticians Affiliated Credentialing Board and the Hearing and Speech Examining Board. It also amends a reference to the Medical Examining Board to reflect the creation of subch. II of ch. 448, relating to licensing by the Medical Examining Board [SECS. 1 through 5 of the Substitute Amendment accomplish these changes].

The Substitute Amendment amends s. 448.08 (4), Stats., which relates to an exception from the prohibition on providers splitting fees. Under the statutes, it is lawful for physicians or podiatrists who have entered into a partnership for the practice of medicine or podiatry to render a single bill for the service in the name of the partnership. It is also lawful for a service corporation to render a single bill for services in the name of the corporation, provided that each individual physician or podiatrist that renders billed services and each individual licensed, registered or certified as a health care provider that renders billed services is individually identified as having rendered such service. Substitute Amendment 1 adds to the statute references to the chapters under which chiropractors, dieticians, hearing and speech examiners and physical therapists are licensed. This is accomplished by SEC. 6 of the Substitute Amendment.

SECTIONS 7 and 8 of Substitute Amendment 1 provide that the Patients Compensation Fund will provide coverage to service corporations that are organized by health care providers unless the Board of Governors determines that it is not the "primary purpose" of the service corporation to provide the medical services of physicians or nurse anesthetists. The Substitute Amendment also provides that the Board of Governors may not determine that it is not the primary purpose of a service corporation to provide the medical services of physicians or nurse anesthetists unless more than 50% of the shareholders of the service corporations are neither physicians nor nurse anesthetists.

BACKGROUND

The Patients Compensation Fund ("Fund") provides liability coverage for malpractice claims against health care providers if the amount of a claim exceeds \$400,000 or the total claims paid on behalf of the provider exceed \$1,000,000 in a year. A "health care provider" is a person to whom the chapter applies under s. 655.002 (1), Stats. Among those who are health care providers are: (a) physicians and nurse anesthetists; (b) a partnership comprised of physicians or nurse anesthetists organized and operated in this state "for the primary purpose" of providing medical services of physicians or nurse anesthetists; and (c) a corporation organized and operated in this state for the primary purpose of providing the medical services of physicians or nurse anesthetists [s. 655.002 (1) (a), (d) and (e), Stats.].

1993 Senate Bill 618, which became 1993 Wisconsin Act 473, amended Wisconsin statutes relating to health care professional service corporations to permit any "health care practitioner," that is, an individual who is licensed, registered or certified by the Board of Nursing, Medical Examining Board, Optometry Examining Board, Pharmacy Examining Board, Psychology Examining Board or the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors, to form a service corporation with any other health care practitioner. The law was amended to change the requirement that each shareholder, director or officer of a service corporation must be licensed, certified or registered by a state agency in the same field of endeavor to permit persons who are "health care practitioners" to be shareholders, directors or officers of a service corporation.

Among the provisions included in Act 473 was the creation in ch. 655, Stats., relating to the Fund, of a definition of "health care practitioner" to include all those categories of persons previously mentioned who are employes of a health care provider and who have the authority to provide health care services that are not under the direction and supervision of a physician or nurse anesthetist. SECTION 11 of Act 473 amended s. 655.005 (2), Stats., which previously had stated that the Fund would provide coverage for claims against the health care provider or the employe of the health care provider due to acts or omissions of the employe acting within the scope of his or her employment in providing health care services, to exclude coverage for a "health care practitioner" who is not providing health care services under the direction and supervision of a physician or nurse anesthetist.

Section 655.005 (2t), Stats., was created to state that the above provision does not affect the liability of a "health care provider" for the acts of its employes.

The effect of these two provisions was to continue to provide Fund coverage of a service corporation that included persons other than physicians or nurse anesthetists as shareholders in the corporation so long as the corporation met the requirements in s. 655.002 (1) (d) and (e), Stats., of being formed "primarily for" the purpose of providing the services of physicians and nurse anesthetists.

A fiscal estimate prepared by the Office of the Commissioner of Insurance (OCI), for 1995 Assembly Bill 325 states, in part:

Any "service corporation" that is not comprised of physicians or CRNAs or both would not meet the Patients Compensation Fund's (Fund) proposed definition of a service corporation. Any other type of health care provider to a service corporation or shareholder would effectively render that corporation ineligible for Fund coverage.

The statement in the fiscal estimate is directly contrary to the legislative intent of 1993 Wisconsin Act 473.

It was the clear intent of last session's legislation that the Fund would issue coverage to the service corporation but exclude from that coverage the acts of independent practitioners and any liability associated with such acts. The intent was not to deny all coverage by the Fund to the service corporation merely because it includes nonphysicians and nurse anesthetists as shareholders.

Subsequently, the Joint Committee for Review of Administrative Rules (JCRAR) suspended the portion of Emergency Rules promulgated by the Fund that excluded service corporations from coverage if they had even <u>one</u> provider who is not a physician or nurse anesthetist as a shareholder. After JCRAR suspended the provision, the Board of Governors for the Fund revised its *permanent* rule to reflect JCRAR's action. [The permanent rule, CHR 95-105, is currently under review by the Assembly Committee on Insurance, Securities and Corporate Policy and the Senate Committee on Insurance.]

Assembly Substitute Amendment 1 makes it clear that the Fund will issue coverage to any service corporation with 50% or more of its shareholders who are physicians or nurse anesthetists. [However, as previously noted, that coverage will exclude the independent acts of "health care practitioners" who are not physicians or nurse anesthetists.]

GAA:kja:wu:ksm;lah;wu





180.1915 CONTRACT-AND-TORT-RELATIONSHIPS-PRESERVED: PROFESSIONAL RELATIONSHIPS AND LIABILITY. Except as provided herein, Sections 180.1901 to 180.1921 do not alter any contract, tort or other legal relationship between a person receiving professional services and one or more persons who are licensed, certified or registered to render those professional services and who are shareholders in the same service corporation. A shareholder of a service corporation shall remain personally liable for any negligent or wrongful act or misconduct committed by such shareholder, or by any person under such shareholder's actual supervision and control in the specific activity in which the negligent or wrongful act or misconduct occurred, in the rendition of professional services on behalf of the service corporation to the same extent as such person would be individually liable under common law. A shareholder of a service corporation shall not be vicariously liable for the acts or misconduct of another shareholder or other director, officer, agent or employe not under the shareholder's direct supervision and control. Nothing in this section relieves a service corporation of any liability for the negligent or wrongful acts or misconduct of its directors, officers, agents or employes while they are engaged on behalf of the service corporation in the rendition of professional services. Any legal liability which may arise out of the professional service shall be joint and several among those shareholders of the same service corporation. A shareholder, director, officer or employe of a service corporation is not personally liable for the debts or other contractual obligations of the service corporation. A service corporation may charge for the services of its directors, officers, employes or agents, may collect such charges and may compensate those who render such personal services.

Junal





MEMO FROM: George C. Brown Public Affairs Director

Sopt. 25, 1995

Darcy, Here's our Version of the amendment I descussed with The draffing attorney is Rich Champaign. His

Version is scheduled to be

Completed and arailable by

10 Am tomorrow.

George

P.S. My direct dial is 250-6/28





September 27, 1995

TO:

Members, State Assembly

FROM:

Steve Ryan, President

Wisconsin Speech, Language and Hearing Assoc.

RE:

AB 325 and AB 429

On behalf of the many hard-working professional speech language pathologists and audiologists in Wisconsin, I would encourage you to support AB 325 and AB 429.

British Office of Strate o

AB 325 merely extends the medical service corporation mechanism to other health care professionals. Under this bill, speech language pathologists and audiologists would also be able to join as shareholders with other health care professionals in a medical service corporation. We believe that this mechanism reflects the growing trend of collaboration among health care professionals. The Assembly Insurance, Securities and Corporate Policy committee unanimously supported the bill. We encourage your support of this legislation.

AB 429 relates to the schedule for the calibration of audiometric equipment. Currently the statutes dictate that the equipment be calibrated every 6 months. This bill leaves the schedule up to the Hearing and Speech Examining Board.

In addition, the bill changes the references to hearing aid dealers and fitters to a more appropriate reference of "hearing instrument specialists".

The bill was unanimously supported by the Assembly Health Committee and we encourage your support as well.





Thank you for this opportunity to testify on Assembly Bill 325, relating to health care professional service corporations.

As you may know, under current law, many health care professionals may organize as a service corporation including registered nurses, licensed practical nurses, nurse-midwifes, physicians, podiatrists, physician assistants, occupational therapists, optometrists, psychologists, private practice school psychologists, social workers, marriage and family therapists and professional counselors.

The State of Wisconsin created the Patient Compensation Fund to cover certain claims arising from the acts of physicians, nurse anesthetists or their employees. However, the Fund does not cover the employees if they are not required to practice under the supervision of a physician or nurse anesthetists. This bill would allow chiropractors, physical therapists, dietitians, speechlanguage pathologists and audiologists to be shareholders in a health care professional service corporations. If the corporation determines that its primary purpose is not to provide the medical services of physicians or nurse anesthetists and if less than half of the shareholders are physicians and nurse anesthetists, the Fund will provide coverage for the corporation.

This bill passed my committee, the Assembly Insurance Securities and Corporation Committee by a vote of 12 to 0 and passed the Assembly by a voice vote. I now ask for your support of this bill for two main reasons:

and

Solul

- 1) These trained and educated health care professionals deserve to be treated like other health care professionals who can be shareholders in a health care professional service corporation.
- 2) If existing health care professional service corporations convert to include providers other than physicians or nurse anesthetists, there will be a decrease in exposure for the Fund.

I would be happy to answer any questions you may have.









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Jeffrey R. Lyne, D.C.

Michael J. McMahon, D.C.

James W. Weber, D.C.

Russell A. Leonard **Executive Director**

To: Members of the Wisconsin Legislature

From: Bill Gerrard Pat Essie

Professional Service Corporations A0325 Re:

Under current law, chiropractors as well as medical doctors and other health care professionals may organize their business activities under service corporations. As a result of 1993 Act 473 the following providers to actually co-own their service corporations:

- Medical doctors
- · Social workers
- Psychologists
- Nurses
- Podiatrists
- Respiratory care practitioner
- Optometrists
- Private school psychologists

- Licensed practical nurses
- Nurse midwifes
- Physician assistants
- Occupational Therapists
- O.T. assistants
- Pharmacist
- Marriage and family therapists
- · Professional counselors

The Wisconsin Chiropractic Association respectfullr requests your support for LRB-0963/1 which would allow chiropractors to co-own their service corporations with the above groups of health care providers.

- Health care services could be provided more efficiently
- Closer working relationships would develop among provider groups enhancing the quality of care received by a patient
- Referral of patients could be accomplished with much less inconvenience to the patient
- Future health care reform initiatives could be designed more efficiently

This legislation will not affect the scope of practice for chiropractors or any other provider group. On behalf of the hundreds of thousands of chiropractic patients across Wisconsin, we would appreciate your support of LRB-0963/1 to increase the efficiency of our health care system.

Serving Wisconsin's health care needs since 1911



Wisconsin Chiropractic Association

521 E. Washington Avenue Madison, WI 53703 Tel. (608) 256-7023 ● Fax (608) 256-7123

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Russell A. Leonard Executive Director To: Members of the Wisconsin Legislature

From: Bill Gerrard
Pat Essie

Re: Professional Service Corporations

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Serving Wisconsin's health care needs since 1911





Last Processed on: 4 Oct 1995

ASS	EMBLY E	BILL	325
An .	Act to	amen	d 448.08 (4); and to create 180.1901 (lm) (am) of the
sta	tutes;	rela	ting to: health care professional service corporations.
1995			
	04-19.	Α.	Introduced by Representatives Albers, F. Lasee,
			Baldus and Goetsch.
	04-19.	Α.	Read first time and referred to committee on
			Insurance, Securities and Corporate Policy240
	04-20.	Α.	Public hearing held.
-	05-18.	Α.	Representative Plombon added as a coauthor263
	05-23.	Α.	Fiscal estimate received.
	05-23.	Α.	Fiscal estimate received.
	09-14.	Α.	Executive action taken.
	09-14.	Α.	Assembly substitute amendment 1 offered by
			committee on
			Insurance, Securities and Corporate Policy445
	09-19.	Α.	Report Assembly substitute amendment 1 adoption
			recommended by committee on Insurance, Securities
			and Corporate Policy, Ayes 12, Noes 0
-	09-19.	Α.	Report passage as amended recommended by committee
			on Insurance, Securities and Corporate Policy,
			Ayes 12, Noes 0
	09-19.	Α.	Referred to committee on Rules449
	09-21.	Α.	Placed on calendar 9-27-95 by committee on Rules.
	09-28.	Α.	Read a second time
	09-28.	Α.	Assembly substitute amendment 1 adopted520
	09-28.	Α.	Ordered to a third reading
	09-28.	Α.	Rules suspended520
	09-28.	Α.	Read a third time and passed
_	09-28.	Α.	Ordered immediately messaged
	10-03.	. s.	Received from Assembly
	10-03.	. s.	Read first time and referred to committee on Health,
			Human Services and Aging